UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.86/53
17 June 1994

ORIGINAL: ENGLISH

COMMITTEE ON APPLICATIONS FOR REVIEW OF
ADMINISTRATIVE TRIBUNAL JUDGEMENTS
Forty-third session
Application Nos. 89, 90, 91 and 92

ADMINISTRATIVE TRIBUNAL JUDGEMENTS NO. 622: ARAIM AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 630: KOFI AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 632: MUGHIR AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 628: SHKUKANI AGAINST THE COMMISSIONER-GENERAL OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

Report of the Committee

Rapporteur: Mr. Michael WOOD (United Kingdom of Great Britain and Northern Ireland)

I. INTRODUCTION

1. At its forty-third session, the Committee on Applications for Review of Administrative Tribunal Judgements, established under article 11 of the statute of the Administrative Tribunal, considered the following applications:

(a) Application of Mr. Araim for a review of Administrative Tribunal Judgement No. 622 - Araim v. the Secretary-General of the United Nations;

(b) Application of Mr. Kofi for a review of Administrative Tribunal Judgement No. 630 - Kofi v. the Secretary-General of the United Nations;

(c) Application of Ms. Mughir for a review of Administrative Tribunal Judgement No. 632 - Mughir v. the Secretary-General of the United Nations;

(d) Application of Mr. Shkukani for a review of Administrative Tribunal Judgement No. 628 - Shkukani v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East;

2. Meetings of the Committee were held on 14 and 16 June 1994.

II. COMPOSITION OF THE COMMITTEE AND ORGANIZATION OF THE SESSION

3. The Committee, under paragraph 4 of article 11 of the statute of the Administrative Tribunal, is composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly (forty-eighth session), namely, at this time: Algeria, Bangladesh, Benin, Burkina Faso, Canada, China, Egypt, France, Germany, Grenada, Guatemala, Guyana, India, Iran (Islamic Republic of), Liberia, Liechtenstein, Pakistan, Poland, Republic of Korea, Russian Federation, Slovakia, Sri Lanka, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Zaire and Zambia.

4. Ms. Maria del Lujan Flores (Uruguay) and Mr. Michael Wood (United Kingdom), elected respectively as Chairman and Rapporteur at the forty-second session, continued to serve in those capacities at the forty-third session of the Committee.

III. THE APPLICATIONS BEFORE THE COMMITTEE AND THEIR CONSIDERATION

5. On 4 March 1994, the Committee received, through its Secretary, an application from Mr. Araim requesting a review of Judgement No. 622 rendered by the United Nations Administrative Tribunal on 12 November 1993 in the case of Araim against the Secretary-General of the United Nations. In accordance with paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 9 May 1994, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.256) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/622).

6. Written comments of the Respondent, submitted with respect to the application of Mr. Araim in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.257.

7. The Committee considered the application of Mr. Araim at its closed meeting held on 14 June 1994.

8. The Committee decided, without a vote, that there was not a substantial basis for the application under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should

not be requested to give an advisory opinion in respect of Judgement No. 622 delivered by the United Nations Administrative Tribunal in the case of Araim against the Secretary-General of the United Nations.

9. On 13 March 1994, the Committee received, through its Secretary, an application from Mr. Kofi requesting a review of Judgement No. 630 rendered by the United Nations Administrative Tribunal on 18 November 1993 in the case of Kofi against the Secretary-General of the United Nations. In accordance with paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 9 May 1994, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.258) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/630).

10. Written comments of the Respondent, submitted with respect to the application of Mr. Kofi in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.259.

11. The Committee considered the application of Mr. Kofi at its closed meeting held on 14 June 1994.

12. The Committee decided, without a vote, that there was not a substantial basis for the application under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 630 delivered by the United Nations Administrative Tribunal in the case of Kofi against the Secretary-General of the United Nations. With reference to the applicant's request that the Committee send the case back to the Tribunal, the members of the Committee noted that that request did not fall within the Committee's mandate.

13. On 9 March 1994, the Committee received, through its Secretary, an application from Ms. Mughir requesting a review of Judgement No. 632 rendered by the United Nations Administrative Tribunal on 19 November 1993 in the case of Mughir against the Secretary-General of the United Nations. The application of Ms. Mughir did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, of the rules of procedure of the Committee, on 21 March 1994 the application was returned to Ms. Mughir with a request that it be corrected and resubmitted within three weeks from the date of its return. A corrected application of Ms. Mughir, dated 6 April 1994, was received by the Secretary of the Committee on the same date. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 9 May 1994, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.260) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/632).

14. Written comments of the Respondent, submitted with respect to the application of Ms. Mughir in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.261.

15. The Committee considered the application of Ms. Mughir at its closed meeting held on 14 June 1994.

16. The Committee decided, without a vote, that there was not a substantial basis for the application of Ms. Mughir under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 632 delivered by the United Nations Administrative Tribunal in the case of Mughir against the Secretary-General of the United Nations.

17. On 10 March 1994, the Committee received, through its Secretary, an application from Mr. Shkukani requesting a review of Judgement No. 628 rendered by the United Nations Administrative Tribunal on 17 November 1993 in the case of Shkukani against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The application of Mr. Shkukani did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, of the rules of procedure of the Committee, on 24 March 1994 the application was returned to Mr. Shkukani with a request that it be corrected and resubmitted within three weeks from the date of its return. A corrected application of Mr. Shkukani, dated 1 April 1994, was received by the Secretary of the Committee on 14 April 1994. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 9 May 1994, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.262) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/628).

18. Written comments of the Respondent, submitted with respect to the application of Mr. Shkukani in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.263.

19. The Committee considered the application of Mr. Shkukani at its closed meeting held on 14 June 1994.

20. The Committee decided, without a vote, that there was not a substantial basis for the application of Mr. Shkukani under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 628 delivered by the United Nations Administrative Tribunal in the case of Shkukani against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. With reference to the applicant's other requests, the members of the Committee noted that those requests were not within the Committee's mandate.

21. In accordance with article VIII, paragraph 4, of the rules of procedure of the Committee, the decisions of the Committee with regard to the applications of Mr. Araim, Mr. Kofi, Ms. Mughir and Mr. Shkukani were formally announced by the Chairman at the meeting of the Committee, held in public on 16 June 1994. At that meeting a statement was made by the representative of Egypt. The verbatim record of the public meeting of the Committee is contained in document A/AC.86/XL/PV.2.